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**The Monthly Report
of Legislative
Activity**



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JULY 1990

HELENA, MONTANA

Vol. VII No. 13

WATER POLICY COMMITTEE

Water Reservation, Education, Research, Leasing Discussed...The June 8 Water Policy Committee meeting included:

A report by the Department of Natural Resources and Conservation (DNRC) on water reservation administration including changes in water reservations, transfers of reservations, reallocation of minimum flow reservations, and the issuance of permits on completed water reservations.

A report by the Water Resources Center on Montana watercourse initiatives including the Adult Water Awareness Program and the Water Education for Teachers.

An EQC staff report on the Ground Water Data Task Force that specifically focused on the baseline ground water monitoring and aquifer assessment programs.

The Interagency Water Research Policy Advisory Board's final report to the Committee for coordination and oversight of water research in Montana. The Committee will discuss the report and its recommendations at a future meeting.

A tentative study outline by DNRC on water leasing and time table to ensure compliance with HB 707. After discussing the scope of the study and the Committee's role in it, the Committee decided that the WPC November meeting would allow for extensive public

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comment on water leasing. The Committee agreed to work closely with DNRC to prepare and present the final study report.

An update on the state water plan including the latest draft sections and a report on the new basin planning process. The DNRC reviewed the process and results of the state-wide "open house" meetings.

Introduction of the new Chief Water Judge, C. Bruce Loble, to the Committee.

Meeting Sept. 6-7...The next WPC meeting is scheduled for Sept. 6-7 in the State Capitol. Tentative agenda items include an update on the water leasing study, a discussion of the water research recommendations and a continuing look at federal and state water relations.

REVENUE OVERSIGHT COMMITTEE

Forest Taxation Subcommittee Adopts Draft Bill...At its June 7 meeting, the Forest Taxation Subcommittee of the Revenue Oversight Committee approved in concept a draft bill to change the way forest lands are valued for property tax purposes. The bill, patterned after Idaho law, would change the taxation of forest lands from the standing inventory method to a productivity method. Forest lands under this method would be valued by a net income approach based on the biological potential of the land to produce wood fiber and related agricultural products. Market and other factors would be taken into account in determining value. The bill would also provide for an optional yield tax for small landowners (i.e., 5 acres to 3,500 acres). Under this option, forest lands would be assessed on bare land values, and landowners would pay a yield tax at the time of harvest.

Revenue Oversight Committee Endorses Forest Tax Bill...At its June 8 meeting, the full Revenue Oversight Committee adopted the Forest Taxation Subcommittee recommendation of the draft forest taxation bill. The proposal will be mailed to interested persons. Others interested in receiving a copy of the draft proposal should contact the Legislative Council. Additional public comment on the draft is encouraged.

The Committee directed the Legislative Fiscal Analyst to work with

the Department of Revenue and the Department of State Lands to evaluate the effects of the proposal on forest landowners and on property tax revenue. The Committee will revisit the draft legislation latter this fall to make a final recommendation to the 52nd Legislature.

Legislative Fiscal Analyst Staff Reports...LFA staff presented the revenue estimating methodologies used to forecast individual income tax and corporation license tax receipts. The report included major factors that can affect tax collections. LFA staff also presented a revenue status report on deposits into the general fund and the state school equalization account. Staff noted that the school equalization fund is solvent but that the general fund should be watched carefully. ROC members will receive revenue status reports on a monthly basis.

Other Committee Action...The Revenue Oversight Committee:

(1) Adopted the meeting schedule for the remainder of the interim: Sept. 27 (joint meeting with the school implementation oversight committee) and Sept. 28 (regular committee business), Nov. 16, and Dec. 7.

(2) Approved SB 1 (May 1990 Special Session) study plan to study the new methods of taxing coal, oil and natural gas production at the local level.

LEGISLATIVE AUDIT COMMITTEE

On June 25, the Legislative Audit Committee reviewed and released the following reports:

FINANCIAL-COMPLIANCE AUDITS:

Department of Livestock: The audit report for the Department of Livestock (89-22) covers the two fiscal years ended June 30, 1989. The Legislative Auditor issued an unqualified opinion on the department's financial schedules for the audit period. The report contains seven recommendations for improving the department's internal controls, financial reporting and compliance with laws and regulations. The recommendations address the following issues: 1) spending non-General Fund money first; 2) stock estray proceeds;

3) contracted services; 4) brand inspection reports; 5) travel expenditures; 6) compliance with operating budget requirements in House Bill 2, Laws of 1987; and 7) accounting issues.

Department of Agriculture, including Montana Agricultural Loan Authority: The Legislative Auditor performed a financial-compliance audit for the Department of Agriculture for the two fiscal years ended June 30, 1989. The report contains four recommendations. The major issues discussed in the report were: 1) setting grain service fees commensurate with costs; 2) complying with state laws and regulations; and 3) properly accounting for the hail insurance program.

Butte Vocational-Technical Center: The financial-compliance audit report for the two fiscal years ended June 30, 1989, contains 17 recommendations. The recommendations to the center include spending non-General Fund money first, compliance with federal financial assistance regulations, fixed asset controls, accounting for financial activity in accordance with state law and compliance with state purchasing, travel, and contracted services laws and policies. A qualified opinion was issued on the center's Schedule of Changes in Fund Balances and an unqualified opinion was issued on the Schedule of Budgeted Revenue and Schedules of Budgeted Program Expenditures.

Great Falls Vocational-Technical Center: The financial-compliance audit report for the two fiscal years ended June 30, 1989, contains seven recommendations. The recommendations to the center relate to compliance with federal regulations, cash controls, fixed asset controls, spending non-General Fund money first, and accounting for financial activity in accordance with state law. An unqualified opinion was issued on the center's financial schedules.

Federal Single Audit Report: The Legislative Auditor performed a biennial financial-compliance audit of the State of Montana's federal financial assistance programs for the two fiscal years ended June 30, 1989. The Montana Single Audit Report contains a report on and a Schedule of Federal Financial Assistance for the two years ended June 30, 1989, required reports on internal controls and compliance pertaining to the state's federal financial assistance programs and general purpose financial statements, and all findings of noncompliance and questioned costs pertaining to federal financial assistance programs (identified during our financial-compliance audits of individual state agencies). The auditor qualified two of the required

reports--an internal control report for management control weaknesses at Montana State University (MSU) and the Department of Family Services and a compliance report for MSU's noncompliance with federal requirements pertaining to its nonmajor (less than \$3,000,000) federal financial assistance programs.

PERFORMANCE AUDITS:

Department of Family Services, Child Protective Services Program:

The Legislative Auditor conducted a performance audit of the Department of Family Services Child Protective Services Program. The report contains 19 recommendations for improvements in the administration of the Child Protective Services Program. The major issues include: case management, quality control reviews, administrative budgets for nonassumed counties, and management information.

Department of Revenue, Withholding Tax Program:

The Legislative Auditor conducted a performance audit of the Withholding Tax Program administered by the Department of Revenue, Income and Miscellaneous Tax Division. The major issues discussed in the report include: 1) improving management controls in the Income and Miscellaneous Tax Division; and 2) seeking legislative authority for write-offs of delinquent taxes that cannot be collected.

Department of Health and Environmental Sciences, Motor Vehicle Recycling and Disposal Program: The Legislative Auditor conducted a performance audit of the Montana Motor Vehicle Recycling and Disposal Program, commonly referred to as the Junk Vehicle Program. Major issues include: 1) improvements in the administration and operation of the program; 2) need for increased monitoring and enforcement of Motor Vehicle Wrecking Facilities; and 3) areas for legislative clarification.

Department of Highways, Gross Vehicle Weight Division: The Legislative Auditor conducted a performance audit of the Gross Vehicle Weight Division of the Department of Highways. The report contains five recommendations. The major issues discussed in the report were: 1) delegating more authority over GVW operations to the district level; 2) seeking legislation to establish an overweight permit fee that considers both weight and miles traveled in the state; and 3) conducting a study to determine the appropriate level of highway user fees.

Copies of reports are available from the Legislative Auditor's Office, Room 135, State Capitol, Helena, MT 59620, 444-3122.

Meeting in September...The next meeting of the Legislative Audit Committee is tentatively scheduled for sometime in September 1990, subject to the call of the Chair.

COMMITTEE ON STATE EMPLOYEE COMPENSATION

Priorities Established...The Committee on State Employee Compensation at its May meeting, after hearing the preliminary results of an audit of Montana's pay system by Rolie Waters of the Dallas-based Waters Consulting Group, Inc., and studying the results of state's salary and benefits survey, decided to:

- ¶ explore alternatives to the current 13-step structure of the statewide pay plan;
- ¶ consider various options for bringing employee salaries closer to market;
- ¶ explore policy options for adjusting the pay schedule to market;
- ¶ study the state's entry-level policy of hiring new employees at step 1;
- ¶ study compensation issues related to special pay for employees who work off-shifts;
- ¶ study proposals for adjustments to the teacher's pay plan, the potential of a separate pay plan for law enforcement and direct care workers, and issues related to employees exempted from the statewide pay plan since 1975;
- ¶ direct the Department of Administration to continue its transition to a quantitative point factoring job classification method to address identified problems;
- ¶ direct the Department of Administration to study problems with

reimbursement for job-related travel expenses; and

¶ not address employee benefits.

The salary and benefits survey, based on the current job classifications, revealed that state employee salaries are as much as 20% behind the market, although some job classes are closer to market than others.

Final Report Heard...The committee met June 29 to hear Waters' final report and recommendations and summary of the pay systems used by 12 other states in the region. The committee was expected to decide on the state's market-based pay policy and to select from six alternative pay plan structures.

JOINT INTERIM SUBCOMMITTEE ON MARKETING OF MOTOR FUELS

Bills Requested for Consideration...After hearing the returns on statewide surveys of motor fuels prices and receiving reports on the provisions of federal and state laws regulating the marketing of petroleum, the Joint Interim Subcommittee on Marketing of Motors Fuels on June 22 requested the staff to prepare for the committee's approval bills to:

¶ strengthen Montana's anti-trust laws by adopting provisions similar to the federal Robinson-Patman Act;

¶ prohibit below-cost sales of motor fuels (similar to a bill in 1989 Legislature);

¶ establish gasoline dealer bill of rights (similar to a bill in 1987 Legislature);

¶ prohibit refiners from owning and operating motor fuels retail outlets; and

¶ allow franchised motor fuels dealers to purchase product on the open market.

Meeting Scheduled Aug. 9...The Subcommittee will meet at 10

a.m. Thursday, Aug. 9, in Room 104 of the Capitol to review the draft bills and decide whether to recommend any for enactment.

ENVIRONMENTAL QUALITY COUNCIL

Three-Day Meeting...The Environmental Quality Council met three days beginning June 14 in Livingston.

Hard Rock Mining Impact...Opening the Thursday session was a report on the statutory relationship between the Hard Rock Mining Impact Board and the Department of Commerce which concluded that the Board was designed to function independently of the Department. However, ambiguity in the statutes warrants action to ensure the Board's continued effective independence. The EQC will reconsider this issue and possible action at a later meeting.

Options on Rural Problems...Presented to the EQC was the Rural Development Study, requested by the Governor and the Legislative Council in March, 1990. The study analyzed the state, local and administrative regulations governing four issues associated with rural development in Montana. Existing and/or potential problems were identified and, where applicable, options were presented. The four issues -- sewage disposal, fallout shelters, geothermal development and unregulated residential developments -- generated considerable Council and public comment. In response, the Council decided to incorporate the larger continuing issues into on-going EQC studies such as MEPA rule evaluation.

Investment Rules...The staff reported on the status of the efforts by the Montana Board of Investments to adopt rules and procedures for implementing the Montana Environmental Policy Act. In the fall of 1989 the Board of Investments requested an attorney general's opinion about the applicability of MEPA to its decisions to invest state funds. The draft AG's opinion in April said that the Board is obligated to comply with MEPA's requirements. The Board has approved plans to adopt the Department of Commerce's MEPA rules and also announced its intention to propose an additional MEPA rule to automatically exempt certain types of investment decisions from environmental review when the decisions are primarily economic in nature without significant effect on the environment.

Friday's Activities...A discussion of forestry management issues, specifically concentrating on cumulative watershed effects began Friday morning's proceedings.

Solid Waste Management...As part of its continued work on solid waste management issues under SJR 19, the EQC received reports on funding strategies and legislative options for reducing the size of the waste stream. The report on funding included discussion of private versus public disposal systems, mechanisms to fund the state solid waste program, and steps the state might take to assist local governments in obtaining funding. Also discussed were relative merits of various mechanisms used by other states to reduce the volume of solid waste entering landfills. No action was taken, but the Council will develop SJR 19 recommendations at its fall meetings.

Ground Water Issues...The remainder of Friday was dominated by ground water protection and management issues. The EQC reviewed the Montana Ground Water Monitoring and Information Acquisition Plan that was developed over the past eight months by an interagency Ground Water Data Task Force. The plan consists of two new proposed programs to monitor ground water levels and natural water quality and to systematically characterize major aquifers on a statewide basis. The EQC agreed with the task force's assessment of deficiencies in existing ground water information and with the need for the proposed programs. The proposed ground water monitoring program would consist of quarterly water level measurements at 730 monitoring wells located in the major aquifer groups in the state and water quality sampling from 10 percent of those wells. The purpose of the monitoring program is to develop a long term record to document on-going changes in ground water supply and quality. The ground water characterization program would divide the state into 21 county or multi-county study areas to collect and publish information on ground water hydrology, quality, and water use, and land use/contamination sources for the entire state over the next 10 to 15 years. The cost of the two proposed programs is estimated between \$893,000 and \$1.27 million for the first biennium. The task force recommended that the Montana Bureau of Mines and Geology be assigned primary administrative responsibility for the proposed programs, subject to the guidance of an interagency steering committee. Another significant recommendation concerned the need to open a dialogue with the U.S. Geological Survey, Bureau of Land Management, Forest Service, Soil Conservation Service, Environmental Protection Agency, and Bureau of Reclamation to

identify how their ground water programs and federal funding targeted for Montana can be coordinated with the proposed programs. A report to the Council from the Department of Health and Environmental Sciences regarding the Underground Storage Tank Program finished the discussion of groundwater issues.

Log Scaling...On Saturday the Council conducted the second of three public hearings on log scaling. A memo summarizing testimony from the Missoula public hearing and a response from the Montana Wood Products Association were distributed.

Field Trips...After the presentations on both Friday and Saturday, the Council took advantage of the Livingston location and toured the Park County incinerator, the Burlington Northern clean-up site, and Mol Heron fuel spill site.

Meeting in Kalispell...The next EQC meeting is scheduled Aug. 2-3 in Kalispell at the Outlaw Inn. Tentative agenda items include:

- ¶ a discussion of public water supply issues, including effects of new EPA regulations implementing the federal Safe Drinking Water Act amendments of 1986;
- ¶ solid waste issues including special wastes (tires, oil, infectious waste, household hazardous waste) and legislative options for integrated waste management;
- ¶ a status report on the Burlington Northern clean-up process including a review of the partial consent decree and continuing problem areas;
- ¶ an evaluation of funding options to pay for proposed ground water programs and discussion of the recommendations of the task force for program administration; and
- ¶ continued review of MEPA rules and their interaction with environmental review of rural development.

Final Log Scaling Hearing...The third and final public hearing on log scaling will be held from 9 a.m. to noon Saturday, Aug. 4.

DISTRICTING AND APPORTIONMENT COMMISSION

Options for Work of Redistricting...The Montana Districting and Apportionment Commission on June 8 discussed options for redistricting and reviewed computer capability that may be available over the next two years. The Commission members agreed to hold approximately 10 work sessions following publication of final 1990 census data, which should occur about March 1991, to develop options for legislative redistricting. The Commission also agreed to conduct a series of approximately 10 public meetings/hearings throughout the state to promote public participation to develop a redistricting plan. After a demonstration of a computer application developed for assisting in redistricting and after discussing other options available to develop new legislative districts, the Commission recommended to the Legislative Council and the 52nd Legislature that technical assistance be provided through computer-aided resources.

Autumn Meeting...The Commission will meet again this fall, when the members will discuss criteria for congressional and legislative districts.

ADMINISTRATIVE CODE COMMITTEE

Topics Discussed at June 29 Meeting...The Administrative Code Committee met June 29 to discuss and act on the following topics:

¶ Department of Justice rules generally regulating gambling and adopted in Issue 21 of the 1989 Montana Administrative Register (MAR) and Issues 3 and 8 of the 1990 MAR.

¶ Fire Marshal's regulation of construction and sale of above-ground fuel storage tanks.

¶ Department of Social and Rehabilitation Services rules proposed in Issue 11 of the 1990 MAR and retroactively implementing the 1989 Legislature's JOBS bill, Ch.550, Laws of 1989, codified to Title 53, Ch. 4, part 7, MCA.

¶ OPI rules implementing the school funding equalization aid law.

¶ Discussion of amendments to 2-4-110, MCA, proposed by staff.

The meeting was held on the day this issue of the Interim was mailed to subscribers. The next issue of the Interim will describe the committee's action on the above topics.

LEGISLATIVE FINANCE COMMITTEE

Special Session Summary...The staff of the Legislative Fiscal Analyst has prepared a summary of legislation passed during the May 1990 special session. Copies are available by calling 444-2986 or writing the LFA.

COAL TAX OVERSIGHT SUBCOMMITTEE

Perspective on the Future...Two days of field trips in southeastern Montana on June 11 and 12 gave the members of the Coal Tax Oversight Subcommittee a preview of possible future developments affecting an industry that is a major source of revenue for Montana state government. In addition to visiting the East Decker, West Decker, and Spring Creek mines in extreme southern Big Horn County that cumulatively produce annually nearly 15 million tons of coal, the Subcommittee members were escorted over the route of the proposed Tongue River Railroad that if constructed could shorten the haul from those three mines to midwestern markets by about 150 miles. Legislative action in 1987 reduced the rate of Montana's severance tax, but transportation cost continues to be a major factor in Montana coal's competitive situation, and opening of the Tongue River route, combined with Great Lakes transshipment, could extend Montana's markets as far as the eastern seaboard. Subcommittee members also toured the site of Meridian Minerals Company's proposed underground mine in the Bull Mountains southeast of Roundup. The permitting process has begun, and Meridian has already shipped several trainloads of coal from a temporary surface mine to prospective customers for test burns.

Oct. 1 Meeting Date Chosen...The members decided to hold the final meeting of the Subcommittee for this interim on Monday, Oct. 1, if there is business to be conducted that falls within its jurisdiction.

LEGISLATIVE COUNCIL

LIBRARY:

The Library is presently receiving minutes from the 1990 Special Session. After checking and copying on microfiche are completed, distribution of sets of minutes is expected to begin by mid-August.

The online catalog is progressing as holdings through the 'P' classification (education) have been entered. Records for memos from the Legislative Fiscal Analyst's office are now being entered into the memo catalog in addition to the Council's legal and research memos.

The Library now receives the Index to State Policy Reports in Legisnet from NCSL. This paper index provides abstracts of current state documents arranged by subject area, useful for getting an overview of state action on a topic. Online access to this NCSL index will provide the latest information, and the Library staff will help you find information on a topic.



INTERIM CALENDAR

July 13, Postsecondary
Education Study Committee,
Room 104

July 26, Committee on State
Employee Compensation, Room
104

Aug. 2 and 3, Environmental
Quality Council, Outlaw Inn,
Kalispell

Aug. 3 and 4, Legislative

Finance Committee, 9 a.m., Room 104

Aug. 9, Joint Interim Subcommittee on Marketing of Motor Fuels,
Room 104, 10 a.m.

Aug. 30, Committee on State Employee Compensation

Sept. 6 and 7, Water Policy Committee, Room 104

Sept. 7, Joint Legislative Committee on Accountability and Quality
in Education, Room 108

Sept. 7-9, Western States Legislative Forestry Task Force,
Kananaskis, Alta.

Sept. 13, Committee on Indian Affairs, Room 104

Sept. 27 and 28, Legislative Oversight Committee on School
Funding Implementation, Room 104

Sept. 27 and 28, Revenue Oversight Committee, Room 108

Oct. 1, Coal Tax Oversight Subcommittee, Room 104, 10 a.m.

Oct. 4, Committee on Employee Compensation

Oct. 6, Joint Legislative Committee on Accountability and Quality
in Education, Room 104

Oct. 11, Committee on Indian Affairs, Room 104

Nov. 6, General Election, Holiday

Nov. 9, Water Policy Committee, Room 104

Nov. 12, Veterans Day, Holiday

Nov. 16, Revenue Oversight Committee, Room 104

Nov. 22, Thanksgiving Day, Holiday

Nov. 23, Heritage Day, Holiday

Nov. 27, Water Policy Committee, Room 104

Dec. 6 and 7, Environmental Quality Council, Room 108

Dec. 7, Revenue Oversight Committee, Room 104

Dec. 25, Christmas, Holiday

Jan. 1, New Year's, Holiday

Jan. 7, 52nd Legislature Convenes

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